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 RICHARD WOLFE

**UNITED STATES DISTRICT COURT
 FOR THE EASTERN DISTRICT OF NEW YORK**

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GOOGLE INC.,	:	
a Delaware corporation,	:	CV-05-1779 (TCP) (ETB)
	:	
Plaintiff/Counter-Defendant	:	
	:	
v.	:	DECLARATION OF
	:	ROBERT L. POWLEY
RICHARD WOLFE d/b/a	:	
FROOGLES.COM,	:	
an individual,	:	
	:	
Defendant/Counterclaimant	:	
-----)	:	

**DECLARATION OF ROBERT L. POWLEY IN SUPPORT OF
 MR. WOLFE'S MOTION TO COMPEL DISCOVERY
AND SEEKING ATTORNEYS' FEES PURSUANT TO FED. R. CIV. P. 37**

1. I, Robert L. Powley, am a partner at the law firm of Powley & Gibson, P.C. and am a member in good standing of the bar of the State of New York. I am familiar with the facts and circumstances in this action.

2. My firm and I presently serve as counsel to the Defendant/Counterclaimant in this action, Mr. Richard Wolfe.

3. Our office served Notices of the Deposition of Jonathan Rosenberg pursuant to Fed. R. Civ. P. 30(b)(1) on March 3, 2006, July 7, 2006 and again on September 14, 2006.
4. On July 7, 2006, our office served Mr. Wolfe's Third Request for Production of Documents and Things, Third Set of Interrogatories, and Second Request for Admissions on Google.
5. On August 7, 2006, Google served responses to Mr. Wolfe's Third Request for Production of Documents and Things, Third Set of Interrogatories, and Second Request for Admissions.
6. Google objected to substantial portions of each of Mr. Wolfe's discovery requests without offering a sufficient legal justification for their non-compliance.
7. On July 7, 2006, our office served Mr. Wolfe's Amended Notice of Deposition Pursuant to Fed. R. Civ. P. 30(b)(6) on Google.
8. On July 27, 2006, Google served Plaintiff's Objections to Defendant's/Counterclaimant's First Amended Notice of Deposition Pursuant to Fed. R. Civ. P. 30(b)(6).

9. Google objected to several of the topics presented in Mr. Wolfe's First Amended Notice of Deposition Pursuant to Fed. R. Civ. P. 30(b)(6) without offering a sufficient legal justification for its non-compliance.
10. Google's counsel has represented on several occasions that Google intended to withdraw its case-in-chief, but have failed to do so to date.
11. At several intervals throughout this timeline, our office conferred with Google, addressing their objections and refusals to Mr. Wolfe's Notices and Requests. Google remains non-compliant and we are forced to seek the intervention of this Court.

Dated: September 27, 2006

By:



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